

Calendar No. 686

111TH CONGRESS
2^D SESSION**S. 1748****[Report No. 111–362]**

To establish a program of research, recovery, and other activities to provide
for the recovery of the southern sea otter.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2009

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

DECEMBER 10, 2010

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To establish a program of research, recovery, and other
activities to provide for the recovery of the southern
sea otter.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 ~~This Act may be cited as the “Southern Sea Otter~~
5 ~~Recovery and Research Act”.~~

1 **SEC. 2. SOUTHERN SEA OTTER RECOVERY AND RESEARCH**
2 **PROGRAM.**

3 (a) IN GENERAL.—The Secretary of the Interior, act-
4 ing through the United States Fish and Wildlife Service
5 and the United States Geological Survey, shall carry out
6 a recovery and research program for southern sea otter
7 populations along the coast of California, informed by the
8 prioritized research recommendations of the Final Revised
9 Recovery Plan for the southern sea otter (*Enhydra lutris*
10 *nercis*) published by the United States Fish and Wildlife
11 Service and dated February 24, 2003, the Research Plan
12 for California Sea Otter Recovery issued by the United
13 States Fish and Wildlife Service Southern Sea Otter Re-
14 covery Implementation Team and dated March 2, 2007,
15 and any other recovery, research, or conservation plan
16 adopted by the United States Fish and Wildlife Service
17 after the date of enactment of this Act in accordance with
18 otherwise applicable law. The Recovery and Research Pro-
19 gram shall include the following:

20 (1) Monitoring, analysis, and assessment of
21 southern sea otter population demographics, health,
22 causes of mortality, and life history parameters, in-
23 cluding range-wide population surveys.

24 (2) Development and implementation of meas-
25 ures to reduce or eliminate potential factors limiting

1 southern sea otter populations that are related to
 2 marine ecosystem health or human activities.

3 ~~(b) REAPPOINTMENT OF RECOVERY IMPLEMENTA-~~
 4 ~~TION TEAM.~~—Not later than one year after the date of
 5 enactment of this Act, the Secretary shall appoint persons
 6 to a southern sea otter recovery implementation team as
 7 authorized under section 4(f)(2) of the Endangered Spe-
 8 cies Act of 1973 (16 U.S.C. 1533(f)(2)).

9 ~~(c) SOUTHERN SEA OTTER RESEARCH AND RECOV-~~
 10 ~~ERY GRANTS.~~—

11 ~~(1) GRANT AUTHORITY.~~—The Secretary shall
 12 establish a peer-reviewed, merit-based process to
 13 award competitive grants for research regarding
 14 southern sea otters and for projects assisting the re-
 15 covery of southern sea otter populations.

16 ~~(2) PEER REVIEW PANEL.~~—The Secretary shall
 17 establish as necessary a peer review panel to provide
 18 scientific advice and guidance to prioritize proposals
 19 for grants under this subsection.

20 ~~(3) RESEARCH GRANT SUBJECTS.~~—Research
 21 funded with grants under this subsection shall be in
 22 accordance with the research recommendations of
 23 any plan referred to in subsection (a), and may in-
 24 clude the following topics:

25 ~~(A) Causes of sea otter mortality.~~

1 (B) Southern sea otter demographics and
2 natural history.

3 (C) Effects and sources of pollutants, nu-
4 trients, and toxicants on southern sea otters
5 and sequestration of contaminants.

6 (D) Effects and sources of infectious dis-
7 eases and parasites affecting southern sea ot-
8 ters.

9 (E) Limitations on the availability of food
10 resources for southern sea otters and the im-
11 pacts of food limitation on southern sea otter
12 carrying capacity.

13 (F) Interactions between southern sea ot-
14 ters and coastal fisheries and other human ac-
15 tivities in the marine environment.

16 (G) Assessment of the keystone ecological
17 role of sea otters in southern and central Cali-
18 fornia's coastal marine ecosystems, including
19 both the direct and indirect effects of sea otter
20 predation, especially as these effects influence
21 human welfare, resource utilization, and eco-
22 system services.

23 (H) Assessment of the adequacy of emer-
24 gency response and contingency plans.

1 (4) RECOVERY PROJECT SUBJECTS.—Recovery
2 projects funded with grants under this subsection
3 shall be conducted in accordance with recovery rec-
4 ommendations of any plan referred to in subsection
5 (a), and may include projects to—

6 (A) protect and recover southern sea ot-
7 ters;

8 (B) reduce, mitigate, or eliminate potential
9 factors limiting southern sea otter populations
10 that are related to human activities, including
11 projects to—

12 (i) reduce, mitigate, or eliminate fac-
13 tors contributing to mortality, adversely af-
14 fecting health, or restricting distribution
15 and abundance; and

16 (ii) reduce, mitigate, or eliminate fac-
17 tors that harm or reduce the quality of
18 southern sea otter habitat or the health of
19 coastal marine ecosystems; and

20 (C) implement emergency response and
21 contingency plans.

22 (d) REPORT.—The Secretary shall—

23 (1) within 12 months after the date of enact-
24 ment of this Act, report to Congress on—

1 (A) the status of southern sea otter popu-
2 lations;

3 (B) implementation of the Recovery and
4 Research Program and the grant program; and

5 (C) any relevant formal consultations con-
6 ducted under section 7 of the Endangered Spe-
7 cies Act of 1973 (16 U.S.C. 1536) with respect
8 to the southern sea otter; and

9 (2) within 24 months after the date of enact-
10 ment of this Act and every 5 years thereafter; and
11 in consultation with a southern sea otter recovery
12 implementation team (if any) that is otherwise being
13 utilized by the Secretary under section 4(f) of the
14 Endangered Species Act of 1973 (16 U.S.C.
15 1533(f)); report to Congress and the public on—

16 (A) an evaluation of southern sea otter
17 health; causes of southern sea otter mortality;
18 and the interactions of southern sea otters with
19 California's coastal marine ecosystems;

20 (B) an evaluation of actions taken to im-
21 prove southern sea otter health; reduce south-
22 ern sea otter mortality; and improve southern
23 sea otter habitat;

24 (C) recommendation for actions; pursuant
25 to current law; to improve southern sea otter

1 health; reduce the occurrence of human-related
 2 mortality; and improve the health of such coast-
 3 al marine ecosystems; and
 4 ~~(D)~~ recommendations for funding to carry
 5 out this Act.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 ~~(1) RECOVERY AND RESEARCH PROGRAM.~~—The
 9 term “Recovery and Research Program” means the
 10 recovery and research program under section 2(a).

11 ~~(2) SECRETARY.~~—The term “Secretary” means
 12 the Secretary of the Interior, acting through the
 13 United States Fish and Wildlife Service and the
 14 United States Geological Survey.

15 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

16 ~~(a) IN GENERAL.~~—There is authorized to be appro-
 17 priated to the Secretary to carry out this Act \$5,000,000
 18 for each of fiscal years 2010 through 2015 of which—

19 ~~(1)~~ no less than 30 percent shall be for research
 20 grants under section 2(c)(3); and

21 ~~(2)~~ no less than 30 percent shall be for recovery
 22 projects under section 2(c)(4).

23 ~~(b) ADMINISTRATIVE EXPENSES.~~—Of amounts avail-
 24 able each fiscal year to carry out this Act, the Secretary

1 may expend not more than 7 percent to pay the adminis-
 2 trative expenses necessary to carry out this Act.

3 **SEC. 5. TERMINATION.**

4 This Act shall have no force or effect on and after
 5 the date the Secretary (as that term is used in section
 6 4(e)(2) of the Endangered Species Act of 1973 (16 U.S.C.
 7 1533(e)(2)) publishes a determination that the southern
 8 sea otter should be removed from the lists published under
 9 section 4(e) of the Endangered Species Act of 1973 (16
 10 U.S.C. 1533(e)).

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Southern Sea Otter Re-*
 13 *covery and Research Act”.*

14 **SEC. 2. DEFINITIONS.**

15 *In this Act:*

16 (1) *RECOVERY AND RESEARCH PROGRAM.*—*The*
 17 *term “recovery and research program” means the*
 18 *southern sea otter recovery and research program car-*
 19 *ried out under section 3(a).*

20 (2) *SECRETARY.*—*The term “Secretary” means*
 21 *the Secretary of the Interior, acting through the Di-*
 22 *rector of the United States Fish and Wildlife Service*
 23 *and the Director of the United States Geological Sur-*
 24 *vey.*

1 **SEC. 3. SOUTHERN SEA OTTER RECOVERY AND RESEARCH**
2 **PROGRAM.**

3 (a) *PROGRAM.*—

4 (1) *IN GENERAL.*—Not later than 1 year after
5 the date of enactment of this Act, the Secretary of the
6 Interior, acting through the United States Fish and
7 Wildlife Service and the United States Geological
8 Survey, shall carry out a recovery and research pro-
9 gram for southern sea otter populations along the
10 coast of California, informed by—

11 (A) the prioritized research recommenda-
12 tions of the Final Revised Recovery Plan for the
13 southern sea otter (*Enhydra lutris nereis*) pub-
14 lished by the United States Fish and Wildlife
15 Service and dated February 24, 2003;

16 (B) the Research Plan for California Sea
17 Otter Recovery issued by the United States Fish
18 and Wildlife Service Southern Sea Otter Recov-
19 ery Implementation Team and dated March 2,
20 2007; and

21 (C) any other recovery, research, or con-
22 servation plan adopted by the United States Fish
23 and Wildlife Service after the date of enactment
24 of this Act in accordance with otherwise applica-
25 ble law.

1 (2) *REQUIREMENTS.*—*The recovery and research*
 2 *program shall include—*

3 (A) *monitoring, analysis, and assessment of*
 4 *southern sea otter population demographics,*
 5 *health, causes of mortality, and life history pa-*
 6 *rameters, including range-wide population sur-*
 7 *veys; and*

8 (B) *development and implementation of*
 9 *measures to reduce or eliminate potential factors*
 10 *limiting southern sea otter populations that re-*
 11 *late to marine ecosystem health or human activi-*
 12 *ties.*

13 (b) *APPOINTMENT OF RECOVERY IMPLEMENTATION*
 14 *TEAM.*—*Not later than 1 year after the commencement of*
 15 *the recovery and research program under subsection (a), the*
 16 *Secretary shall appoint persons to a southern sea otter re-*
 17 *covery implementation team as authorized in accordance*
 18 *with section 4(f)(2) of the Endangered Species Act of 1973*
 19 *(16 U.S.C. 1533(f)(2)).*

20 (c) *SOUTHERN SEA OTTER RESEARCH AND RECOVERY*
 21 *GRANTS.*—

22 (1) *GRANT AUTHORITY.*—*The Secretary shall es-*
 23 *tablish a peer-reviewed, merit-based process to award*
 24 *competitive grants for research regarding southern sea*

1 *otters and for projects assisting the recovery of south-*
 2 *ern sea otter populations.*

3 (2) *PEER REVIEW PANEL.*—*The Secretary shall*
 4 *establish as necessary a peer review panel to provide*
 5 *scientific advice and guidance to prioritize proposals*
 6 *for grants under this subsection.*

7 (3) *RESEARCH GRANT SUBJECTS.*—*Research*
 8 *funded with grants under this subsection—*

9 (A) *shall be in accordance with the research*
 10 *recommendations of any plan referred to in sub-*
 11 *section (a); and*

12 (B) *may include research on topics such*
 13 *as—*

14 (i) *causes of sea otter mortality;*

15 (ii) *southern sea otter demographics*
 16 *and natural history;*

17 (iii) *effects and sources of poor water*
 18 *quality on southern sea otters (including*
 19 *pollutants, nutrients, and toxicants) and*
 20 *mechanisms for addressing those effects and*
 21 *sources;*

22 (iv) *effects and sources of infectious*
 23 *diseases and parasites affecting southern sea*
 24 *otters;*

(v) limitations on the availability of food resources for southern sea otters and the impacts of food limitation on southern sea otter carrying capacity;

(vi) interactions between southern sea otters and coastal fisheries and other human activities in the marine environment;

(vii) assessment of the keystone ecological role of sea otters in coastal marine ecosystems of southern and central California, including the direct and indirect effects of sea otter predation, especially as those effects influence human welfare, resource use, and ecosystem services; and

(viii) assessment of the adequacy of emergency response and contingency plans.

(4) *RECOVERY PROJECT SUBJECTS.*—Recovery projects funded with grants under this subsection—

(A) shall be conducted in accordance with recovery recommendations of any plan referred to in subsection (a) and the findings of the research conducted under this section; and

(B) may include projects—

(i) to protect and recover southern sea otters;

1 (ii) to reduce, mitigate, or eliminate
 2 potential factors limiting southern sea otter
 3 populations that are related to human ac-
 4 tivities, including projects—

5 (I) to reduce, mitigate, or elimi-
 6 nate factors contributing to mortality,
 7 adversely affecting health, or restrict-
 8 ing distribution and abundance; and

9 (II) to reduce, mitigate, or elimi-
 10 nate factors that harm or reduce the
 11 quality of southern sea otter habitat or
 12 the health of coastal marine ecosystems;
 13 and

14 (iii) to implement emergency response
 15 and contingency plans.

16 (d) *REPORT.*—The Secretary shall—

17 (1) not later than 1 year after the date of enact-
 18 ment of this Act, submit to Congress a report on—

19 (A) the status of southern sea otter popu-
 20 lations;

21 (B) implementation of the recovery and re-
 22 search program and the grant program under
 23 this Act; and

24 (C) any relevant formal consultations con-
 25 ducted during the 2 years preceding the date of

1 enactment of this Act, and any other consulta-
2 tions the Secretary determines to be relevant,
3 under section 7 of the Endangered Species Act of
4 1973 (16 U.S.C. 1536) with respect to the south-
5 ern sea otter; and

6 (2) not later than 2 years after the date of enact-
7 ment of this Act and every 5 years thereafter, and in
8 consultation with a southern sea otter recovery imple-
9 mentation team that is otherwise being used by the
10 Secretary under section 4(f) of the Endangered Spe-
11 cies Act of 1973 (16 U.S.C. 1533(f)), submit to Con-
12 gress and make available to the public a report that
13 includes—

14 (A) an evaluation of—

15 (i) southern sea otter health;

16 (ii) causes of southern sea otter mor-
17 tality; and

18 (iii) the interactions of southern sea ot-
19 ters with the coastal marine ecosystems of
20 California;

21 (B) an evaluation of actions taken—

22 (i) to improve southern sea otter
23 health;

24 (ii) to reduce southern sea otter mor-
25 tality; and

1 (iii) to improve southern sea otter
2 habitat;

3 (C) recommendations for actions that may
4 be taken pursuant to all applicable law—

5 (i) to improve southern sea otter
6 health;

7 (ii) to reduce the occurrence of human-
8 related mortality; and

9 (iii) to improve the health of the coast-
10 al marine ecosystems of California;

11 (D) recommendations for funding to carry
12 out this Act; and

13 (E) a description of any formal consulta-
14 tions that the Secretary determines to be relevant
15 to the research and recovery program established
16 under this Act that are conducted in accordance
17 with section 7 of the Endangered Species Act of
18 1973 (16 U.S.C. 1536) after the date of enact-
19 ment of this Act.

20 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) *IN GENERAL.*—There is authorized to be appro-
22 priated to the Secretary to carry out this Act \$5,000,000
23 for each of fiscal years 2011 through 2016.

24 (b) *MINIMUM PERCENTAGES FOR GRANTS AND*
25 *PROJECTS.*—During the period of fiscal years 2011 through

1 2016 for which funds are authorized to be appropriated
 2 under subsection (a)—

3 (1) not less than 30 percent of the total amounts
 4 appropriated for that period shall be for research
 5 grants under section 3(c)(3); and

6 (2) not less than 30 percent of the total amounts
 7 appropriated for that period shall be for recovery
 8 projects under section 3(c)(4).

9 (c) *ADMINISTRATIVE EXPENSES.*—Of the amounts
 10 made available for each fiscal year to carry out this Act,
 11 the Secretary may expend not more than the greater of 7
 12 percent of the amounts, or \$150,000, to pay the administra-
 13 tive expenses necessary to carry out this Act.

14 **SEC. 5. TERMINATION.**

15 This Act shall have no force or effect on and after the
 16 date on which the Secretary (as that term is used in section
 17 4(c)(2) of the *Endangered Species Act of 1973* (16 U.S.C.
 18 1533(c)(2)) publishes a determination that the southern sea
 19 otter should be removed from the lists published under sec-
 20 tion 4(c) of the *Endangered Species Act of 1973* (16 U.S.C.
 21 1533(c)).

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A BILL

To establish a program of research, recovery, and other activities to provide for the recovery of the southern sea otter.

DECEMBER 10, 2010

Reported with an amendment